

1 RENE L. VALLADARES  
Federal Public Defender  
2 State Bar No. 011479  
ALINA M. SHELL  
3 Assistant Federal Public Defender  
411 East Bonneville Avenue, Suite 250  
4 Las Vegas, Nevada 89101  
(702) 388-6577/Phone  
5 (702) 388-6261/Fax

6 Attorney for Defendant Benito Loaiza-Parra

7 UNITED STATES DISTRICT COURT

8 DISTRICT OF NEVADA

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 BENITO LOAIZA-PARRA,

13 Defendant.

2:13-cr-401-GMN-VCF

**MOTION FOR LATE FILING OF**  
**NOTICE OF APPEAL**

14  
15 COMES NOW the Defendant, Benito Loaiza-Parra (hereinafter Loaiza), by and through his  
16 attorney of record, Alina M. Shell, Assistant Federal Public Defender, and respectfully requests this  
17 Court enter an Order excusing Mr. Loaiza's late filing of a Notice of Appeal to the United States  
18 Court of Appeals for the Ninth Circuit from the Judgment of Conviction, entered on  
19 October 6, 2014, imposing a sentence of 30 months custody on Mr. Loaiza. (Clerk's Record  
20 (CR) 24).

21 This motion is made pursuant to Federal Rule of Appellate Procedure 4(b)(4) and is based  
22 upon the following Points and Authorities filed herewith.

23 DATED this 3<sup>rd</sup> day of November, 2014.

24  
25 RENE L. VALLADARES  
Federal Public Defender

26 /s/ Alina M. Shell

27 ALINA M. SHELL,  
28 Assistant Federal Public Defender

**POINTS AND AUTHORITIES**

Federal Rule of Appellate Procedure 4(b)(4) states: “Upon a showing of excusable neglect or good cause, the district court may—before or after the time has expired, with or without motion and notice—extend the time or filing a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b).” *See* FRAP 4(b)(4).

This Court sentenced Mr. Loaiza on October 2, 2014 (CR 23). The Judgment of Conviction was entered on October 6, 2014 (CR 24). As the Judgment of Conviction was entered on October 6, 2014, the Notice of Appeal was due no later than October 20, 2014. *See* FRAP 4(b)(A)(i). Mr. Loaiza did inform undersigned counsel of his desire to appeal his sentence in a timely manner. However, due to a miscommunication within the Office of the Federal Defender, the Notice of Appeal was not timely filed. This miscommunication was only discovered on November 3, 2014, and this Motion for Late Filing of Notice of Appeal was immediately prepared. Mr. Loaiza entered a guilty plea without the benefit of a plea agreement and is therefore not barred from pursuing this appeal.

Mr. Loaiza is within the 30-day rule prescribed by FRAP 4(b)(4) to request this extension. In this case, good cause has been shown as the late filing is not the fault of Mr. Loaiza, but instead, the result of a miscommunication on the part of the Federal Defender’s Office. Mr. Loaiza, therefore, respectfully requests an extension of time to file the attached Notice of Appeal. The equities support this Court entering an Order allowing Mr. Loaiza to file an out-of-time Notice of Appeal. Counsel will electronically file the attached Notice of Appeal, upon receipt of the Court’s Order granting the filing of such.

DATED this 3<sup>rd</sup> day of November, 2014.

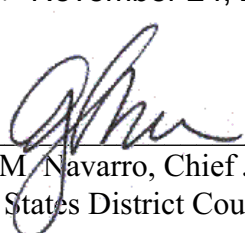
RENE L. VALLADARES  
Federal Public Defender

*/s/ Alina M. Shell*

ALINA M. SHELL,  
Assistant Federal Public Defender

**IT IS SO ORDERED**

Dated: November 24, 2014

  
Gloria M. Navarro, Chief Judge  
United States District Court